

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14826 of Amoco Oil Company, pursuant to 11 DCMR 3108.1, for a special exception under Section 706 to establish a gasoline station with a mini mart in a C-1 District at premises 4925 South Dakota Avenue, N.E., (Square 3899, Lot per subdivision).

Hearing Date: July 21, 1988
Decision Date: July 21, 1988 (Bench Decision)

FINDINGS OF FACT:

1. The site known as 4925 South Dakota Avenue, N.E., is located on the north side of South Dakota Avenue between 10th and 11th Streets, N.E. The site is vacant and located in the C-1 district.
2. The site contains approximately 31,963 square feet of land area. It is bordered to the east by a 20 foot wide public alley.
3. The site was formerly occupied by a one story structure used as a gasoline service station. Gasoline service station use for the site was approved by the Board of Zoning Adjustment in Application No. 5319 dated January 23, 1959. The structure has been demolished and the site has been cleared and graded.
4. The application is seeking a special exception under the above-sited section of the Zoning Regulations to establish a gasoline service station with a small convenience store and self-service pumps. The lot is presently cleared and is bordered by a brick wall which runs north along the alley and then crosses the site about midway across the length of the lot. The northern portion of the lot is an open field which is slightly below the grade of the frontage facing South Dakota Avenue. The proposed convenience store/mini-mart is a matter of right use in the C-1 district which does not require Board approval.
5. The site abuts a convenience store owned by the Southland Corporation (7-11) and is across the street from a Chinese restaurant, a fast food restaurant and a dry cleaning establishment.
6. The applicant's representative testified that Amoco proposes to improve the site by building a gasoline station with a mini-mart and self-service pumps. The

convenience store building will be 44 by 19 feet. The building will also contain the cashier's booth plus coolers, toilet and storage area. The main food and sales area will measure approximately 22 by 19 feet. There will be no food preparation on the site. The building will be centered on the site facing South Dakota Avenue. There will be four new pump islands each with one self-service multi-hose dispenser capable of serving one car on each side of the island. A 32 foot by 96 foot canopy will be constructed over the pump islands. The pumps and the canopy will be located in the center of the site and will be parallel to South Dakota Avenue. The canopy will be lighted and will shelter customers pumping gas in all weather.

7. The plans submitted in this case show two curb cuts on the South Dakota Avenue side of the property which will provide vehicle access to the site. One curb cut is 30 feet wide and the other is 35 feet wide. The applicant will also install new sidewalks and curbs along with a bus waiting pad for the convenience of the public.

8. As a special exception, the Board finds that a gasoline service station is a use predeemed compatible with other commercial uses in the neighborhood provided certain requirements of the Zoning Regulations are met. The convenience store is a matter of right use in the C-1 district. The Board finds that the issue of whether the convenience store may exist on the site is not an issue before the Board.

9. The Board finds that the gasoline station is located in its entirety in excess of 25 feet from the closest residence district and is separated therefrom by a public alley and that all vehicular entrances are in excess of 25 feet from the closest residence district. The Board further finds that all driveways are located more than 40 feet from the intersections of 10th and South Dakota Avenue and 11th and South Dakota as measured from the intersection with the curb lines extended.

10. The Board also finds that there will be no hoist or grease pits associated with this use. The applicant's representative testified at the public hearing and the Board finds that the operation of the gasoline service station will not create dangerous and other objectionable traffic conditions. The prior BZA order indicates that the property was used as a private gasoline station from 1959 until demolition in 1985. The applicant's representative testified that he is unaware of any objectionable traffic conditions resulting from the use of the site as a gasoline service station.

11. The applicant's representative testified, and the Board finds, that the proposed gasoline service station will serve to improve the traffic conditions related to the site.

The new proposed entrance driveways will be further apart than the existing curb cuts thereby facilitating ingress and egress to the site.

12. The applicant's representative testified and the Board finds that the proposed use is designed so that the appearance, screening, lighting and other features will not adversely affect any of the neighboring property owners. The Board finds that the design, appearance and other features will result in an improvement over existing conditions. The lighting will be confined to the site and all lighting will be oriented downward so as to not adversely affect neighboring properties. The applicant's representative testified that the property will be bordered by a brick wall facing the alley and running across the site towards the Southland property. The northern section of the brick wall will be extended upward and will have an inward turning chain link fence mounted upon the wall. This chain link fence will have slats in order to block any car lights which would adversely affect the neighbors. The trash area will be enclosed with the same type of fencing and will include gates for access to the dumpster. The property will be appropriately landscaped and secured as indicated on the plans marked as Exhibit No. 18A of the record.

13. The building on the site will contain approximately 865 square feet of gross floor area and will therefore require three parking spaces. Four spaces are shown on the site plan and all spaces are designed to be accessible at all times.

14. The applicant's representative also testified that it had agreed with the local Advisory Neighborhood Commission ("ANC") to turn off the vacuum pumps at 9 o'clock in order to avoid noise which would disturb the neighbors. The applicant's representative has also agreed that there will be no vehicle storage or repair occurring on the facility at any time. In addition, the applicant's representative noted that the Amoco Oil Company would advertise the franchise opportunity for the station in the immediate neighborhood through the ANC.

15. By memorandum dated July 14, 1988, the Office of Planning (OP) recommended approval of this application. The OP was of the opinion that the proposed gasoline service station is not likely to create dangerous or otherwise objectionable conditions in the area with the conditions that the applicant provide appropriate landscaping on the lot and screening from residential properties to the east. The Board concurs with OP's recommendations.

16. Advisory Neighborhood Commission (ANC) 5A, by letter dated July 19, 1988, supported the application subject to the following conditions:

- a. The site shall be fenced in such a manner as to discourage people from climbing over by providing inward bending barriers on top of the fence.
- b. The unimproved portion of the lot shall be cleared of trash, landscaped and fenced in order to alleviate the problem of its use as a gathering point for undersirable elements.
- c. The fence surrounding the station will have slats to block the lights of vehicles using the facility from nearby residences.
- d. There shall be no automobile repair or vehicle storage on the site.
- e. Vacuum pumps shall be turned off at 9:00 P.M. to avoid producing noise which would disturb the tranquility of the immediate neighborhood.
- f. AMOCO Oil shall advertise the franchise opportunity for the subject site in the community.

17. A nearby resident testified at the public hearing and expressed concern over the previous use of the property as a gasoline station and the possibility of fumes escaping from the facility and the possibility that the site could become a gathering point for local adolescents.

18. The applicant's representative responded to the resident's concerns by noting that the 24-hour operation provided an additional measure of security, that the site would be adequately landscaped to beautify the neighborhood and that the fence surrounding the subject property was so designed as to block the lights from the cars on the site. In addition, the applicant's representative responded by noting that District of Columbia law requires that the station pumps and storage tanks have vapor recovery systems which will be fully employed in the operation of this particular station.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and evidence of record, the Board concludes that the applicant is seeking special exception relief. In order to be granted such a special exception, the applicant must demonstrate that it has complied with the requirements of Section 706.1 and Section 3108.1 of the Zoning Regulations. Section 706.1 permits the establishment of a gasoline station provided that:

1. Each application under this section be referred to the Office of Planning.

2. That the station shall not be located within 25 feet of a residence district unless separated by the residence district by a street or alley.
3. The operation of the use shall not create dangerous or other objectionable traffic conditions.
4. The Board may impose requirements pertaining to the design, appearance, screening or lighting or other requirements as deemed necessary to protect adjacent and nearby property.
5. The required parking spaces will be arranged so that all spaces are accessible at all times.
6. The proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and will tend to adversely affect the use of the neighboring property.

The Board concludes that the proposed gasoline station use will meet all of the above requirements. No objectionable traffic conditions will result. The site is so located that no objectionable impacts will result on nearby property due to noise, activity, visual or other objectionable conditions.

The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and would not tend to adversely affect the use of the neighboring property in accordance with said Regulations and Map. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS.

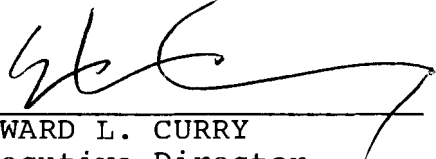
- a. The site shall be fenced in such a manner as to discourage people from climbing over by providing inward bending barriers on top of the fence.
- b. The unimproved portion of the lot shall be cleared of trash, landscaped and fenced in order to alleviate the problem of its use as a gathering point for undesirable elements.
- c. The fence surrounding the station will have slats to block the lights of vehicles using the facility from nearby residences.
- d. There shall be no automobile repair or vehicle storage on the site.

- e. Vacuum pumps shall be turned off at 9:00 P.M. to avoid producing noise which would disturb the tranquility of the immediate neighborhood.
- f. AMOCO Oil shall advertise the franchise opportunity for the subject site in the community.

VOTE: 3-0 (Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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